

CLASSIFICATION OFFICE DECISION

Title of publication: Facebook Business Record - Page 25

Other known title(s): Not stated

OFLC ref: 1900554.000

Medium: Image File

Publisher: Not stated

Country of origin: Not stated

Language: English

Applicant: Commissioner of Police

Classification: Unrestricted.

Descriptive note: None

Display conditions: None

Date of entry in Register: 26 February 2020

Date of direction to issue a label: No direction to issue a label has been issued

Date of notice of decision: 26 February 2020

Summary of reasons for decision:

The image file is a screenshot of a Facebook chat post depicting the Al Noor Mosque with an associated comment reading, "target located". In classifying this image file the Classification Office has given particular consideration to the decisions made in relation to 'The Great Replacement' and subsequent decisions on material that could be considered to be promotional of extremist violence, such as 'Halle Attack Dokumentation' and 'The Shitposter'. There is an important distinction between offensive, abusive or threatening language (sometimes referred to as 'hate speech') and language, images or posts that promote terrorist acts to such an extent that they should be classified as objectionable. 'The Great Replacement' was found to contain the stated justification for the attacks that took place in Christchurch on 15 March 2019 and was evidently intended to inspire and persuade like-minded people to follow the writer's example. Its persuasive force for its target audience was increased by virtue of its direct association with the Christchurch attacks and the attacker. This association gave it a significant level of authority that renders the document dangerous and likely to be significantly harmful to the public good. In contrast, applying the same analysis to 'Facebook Business Record – Page 25' results in quite a different picture. While the content of this publication presents as hateful or threatening (particularly in the context of the immediate aftermath of the 15 March attacks), there is no evidence that has been provided to the Classification Office that its author has any particular authority, nor that their intended audience was particularly vulnerable or wide-ranging. 'Facebook Business Record – Page 25' does not present as a credible exhortation to violent extremism (as does 'The Great Replacement'), nor does it provide instructional detail to would-be terrorists (as does 'Halle Attack Dokumentation'). In making determinations around

content of this kind, the Classification Office is well aware of the very large volume and variety of material produced and distributed online that may be considered hateful and/or dangerous. In navigating this complex digital landscape, the Classification Office is obliged to find the right balance between protecting the public from extremist promotion and propaganda, with the need to protect individual freedom of expression. Accordingly the Classification Office finds that 'Facebook Business Record – Page 25' does not reach the high standard of promotion, encouragement and instruction of crime or terrorism that is required in order to attain an objectionable classification under this part of the Films, Videos, and Publications Classification Act 1993 (FVPC Act). While consideration has been given to restricting this publication to those over 18 years of age, the fact that this publication has apparently had only limited circulation, alongside the fact that the harm that is presents is not necessarily restricted to children suggests that there would be limited utility in so restricting this publication. In coming to this determination the Classification Office repeats that this classification does not mean that 'Facebook Business Record – Page 25' is a harmless example of freedom of expression. On the contrary, it clearly can be read as threatening, and expressing support for an abhorrent attack. The Classification Office notes that there are provisions in enactments other than the FVPC Act for dealing with threatening words, and the classification decision of this Office cannot be read as limiting or restricting any determination that may be made under such provisions. The Classification Office is only mandated to make assessments within the jurisdiction of the FVPC Act. For the above reasons the Classification Office determines that the publication is classified as unrestricted. This classification is consistent with the right to freedom of expression as affirmed by the New Zealand Bill of Rights Act 1990.